

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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CENTRO DE LA COMUNIDAD HISPANA DE :  
LOCUST VALLEY; and THE WORKPLACE :  
PROJECT, :  
:

10 Civ. 2262  
(DRH/ARL)

Plaintiffs, :

-versus- :

**ANSWER TO  
COUNTERCLAIMS**

TOWN OF OYSTER BAY; and JOHN :  
VENDITTO, Town Supervisor of the Town of :  
Oyster Bay, :

Defendants. :  
-----X

Plaintiffs, by their undersigned attorneys, answer Defendants' counterclaims as follows:

**COUNTERCLAIMS**

**Parties**

71. Deny knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

72. Admit the allegations in this paragraph.

73. Admit the allegations in this paragraph.

**Jurisdiction and Venue**

74. This paragraph contains a legal conclusion to which no answer is required.

75. This paragraph contains a legal conclusion to which no answer is required.

**Facts Common to All Counterclaims**

76. Deny knowledge or information sufficient to form a belief as to whether Chapter 205-32 was voted on "following due public notice and hearings." Plaintiffs further that the statement of legislative intent set forth in paragraph 76 of the

Counterclaims embraces the entire purpose behind the ordinance and refer to numbered allegations 33-52 of the Complaint in this matter. Plaintiffs admit the remaining allegations of this paragraph.

77. Deny the allegations of this paragraph except to admit that day laborers, including individuals who are members of the Plaintiff organizations, gather on the sidewalks and street corners of Oyster Bay in order to obtain work.

78. Deny knowledge or information sufficient to form a belief as to the allegations of this paragraph.

79. Deny knowledge or information sufficient to form a belief as to the allegations of this paragraph.

80. Deny knowledge or information sufficient to form a belief as to the allegations of this paragraph.

81. Deny knowledge or information sufficient to form a belief as to the allegations of this paragraph.

82. This paragraph contains a legal conclusion to which no answer is required.

83. This paragraph contains a legal conclusion to which no answer is required.

**FIRST COUNTERCLAIM  
FOR DECLARATORY JUDGMENT**

84. Plaintiffs refer to their allegations and responses to the enumerated paragraphs referenced herein for their answer.

85. This paragraph contains a legal conclusion to which no answer is required.

86. This paragraph contains a legal conclusion to which no answer is required.

87. This paragraph contains a legal conclusion to which no answer is required.

88. This paragraph contains a legal conclusion to which no answer is required.

**SECOND COUNTERCLAIM  
FOR DECLARATORY JUDGMENT**

89. Plaintiffs refer to their allegations and responses to the enumerated paragraphs referenced herein for their answer.

90. This paragraph contains a legal conclusion to which no answer is required.

91. This paragraph contains a legal conclusion to which no answer is required.

92. This paragraph contains a legal conclusion to which no answer is required.

93. This paragraph contains a legal conclusion to which no answer is required.

**THIRD COUNTERCLAIM  
FOR DECLARATORY JUDGMENT**

94. Plaintiffs refer to their allegations and responses to the enumerated paragraphs referenced herein for their answer.

95. This paragraph contains a legal conclusion to which no answer is required.

96. This paragraph contains a legal conclusion to which no answer is required.

97. This paragraph contains a legal conclusion to which no answer is required.

98. This paragraph contains a legal conclusion to which no answer is required.

**AFFIRMATIVE DEFENSES**

**FIRST DEFENSE**

99. The court lacks subject matter jurisdiction over all or part of the counterclaims pursuant to the Declaratory Judgments Act, 28 U.S.C. § 2201 and 28 U.S.C. § 1331.

SECOND DEFENSE

100. The court lacks subject matter jurisdiction over all or part of the counterclaims because no case or controversy exists between the parties as to the counterclaims.

THIRD DEFENSE

101. The counterclaims do not present a justiciable controversy.

FOURTH DEFENSE

102. The counterclaims should be dismissed for failure to state a claim upon which relief could be granted.

FIFTH DEFENSE

103. Defendants lack standing to pursue their counterclaims.

SIXTH DEFENSE

104. The Ordinance is an unconstitutional regulation of speech under the First Amendment.

SEVENTH DEFENSE

105. The Ordinance is unconstitutional under the Fourteenth Amendment's equal protection clause.

EIGHTH DEFENSE

106. Defendants are not entitled to attorney's fees pursuant to 42 U.S.C. § 1988.

WHEREFORE Plaintiffs respectfully request judgment dismissing the counterclaims in their entirety, together with attorney's fees, costs and disbursements in defense thereof, and such other relief as the Court deems just and proper.

Respectfully submitted,



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Dated: July 12, 2010  
New York, NY

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